

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
(Eastern Division)

CHARLES JOHNSON and
GOT NEWS, LLC

Plaintiffs,

v.

GAWKER MEDIA, LLC, J.K. TROTTER,
and GREG HOWARD

Defendants.

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Case No. 15-cv-001137

DECLARATION OF JOHN BURNS REGARDING THE NECESSITY OF DISCOVERY

I, Jonathon Burns, declare:

1. Plaintiffs declare that because Defendants have raised the defense that Plaintiffs are “public figures,” Plaintiffs may be required to show “actual malice,” in other words, Plaintiffs may need to demonstrate that Defendants either knew that the alleged defamatory statements were false and published them anyway, or that Defendants published said statements with reckless disregard for their veracity.

2. This heightened “actual malice” standard requires Plaintiffs to present facts that demonstrate the subjective knowledge and intent of the Defendants responsible for publishing the defamatory statements.

3. Without an opportunity to conduct discovery, Plaintiffs can truly only make an educated guess as to Defendants’ subjective knowledge and intent based on circumstantial evidence and an analysis of Gawker’s and Nick Denton’s published statements regarding the overarching *modus operandi* of Gawker and its policies.

4. Allowing Plaintiffs to conduct discovery would give them the opportunity to depose Defendants and other key persons and to request Defendants to produce internal notes, memoranda, correspondence, or other papers and records, among other things, material to the showing of “actual malice” on behalf of Defendants.

Respectfully Submitted,

THE BURNS LAW FIRM, LLC

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Attorney for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served, via the Court’s electronic notification system, on December 18, 2015, upon all parties of record.

/s/ John C. Burns